IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2085 OF 2005

Kamal Sharma ...Petitioner

Versus

D.S. Chauhan & Anr ...Respondents

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Mr. Subodh Desai a/w Miss. Rekha Tawade i/b M/s. M.V.Kini & Co. for Petitioner

Mr. S.R. Shinde, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 8TH SEPTEMBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioner and the learned A.P.P. for the State.

2. The petitioner has prayed for quashing of process issued against him in Criminal Case No.74/SF/1996 which is pending in the Court of learned Metropolitan Magistrate, 22nd Court, Andheri, Mumbai. In the said case, process has been issued against the petitioner under Section 45(4) of Maharashtra Factories Act, 1948.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of

2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the petitioner prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer revision before the concerned Sessions Court. The learned advocate for the petitioner states that the necessary revision would be preferred within a period of five weeks from today. I am informed that the date before the trial Court is on 12.9.2005. In view of this statement, the trial Court shall not proceed with the trial on 12.9.2005 and for a period of four weeks thereafter. I am further informed that the warrants have been issued against the petitioner. The learned advocate for the petitioner has prayed that the said warrant be quashed. I am not inclined to quash the warrants as in my view, it would be appropriate that the petitioner prefers an application before the Magistrate for setting aside the said warrants. In order to enable the petitioner to take necessary steps for setting aside the warrants before the Magistrate, the said warrants are stayed for a period of five weeks from today.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Writ Petition is disposed of.

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